

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
EASTERN PROFIT CORPORATION :
LIMITED, :
:
: 18-CV-02185 (JGK)
Plaintiff, :
:
v. : September 18, 2019
:
STRATEGIC VISION US LLC, : 500 Pearl Street
:
: New York, New York
Defendant. :
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TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE CONFERENCE
BEFORE THE HONORABLE DEBRA C. FREEMAN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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transcript produced by transcription service

1 (CALL CUTS OUT WHEN ATTORNEYS/JUDGE SPEAK OVER EACH OTHER)

2 THE COURT: This is Judge Freeman.

3 MR. GREIM: Good afternoon. You've got all three of
4 the attorneys here. This is Eddie Greim for Strategic Vision,
5 defendant counterclaim plaintiff. I'll let the other ones
6 introduce themselves.

7 MS. TESKE: Good afternoon, Judge. This is Erin
8 Teske from Hodgson Russ, and Mark Harmon may be joining me
9 although he's not here at the moment.

10 THE COURT: And you're for?

11 MS. TESKE: Representing the non party, Mr. Clark.

12 MR. GRENDI: Zach Grendi for Eastern Profit,
13 Zeichner, Ellman & Krause.

14 THE COURT: All right. So the first order of
15 business seems to me is, Mr. Grendi, your status here and I
16 haven't seen a substitution. I haven't seen a motion to
17 withdraw. The whole idea was that I thought that was going to
18 happen prior to this call and we were going to have new
19 counsel on this call. What's going on?

20 MR. GRENDI: Yes, Your Honor. I can only apologize
21 on behalf of my client. It is my understanding, and I just
22 spoke to my client before the call, that another firm has been
23 selected. The terms have been mentioned and negotiated as to
24 their arrangement, the financial side [inaudible] practice and
25 they will be executing something shortly [inaudible]

1 substituted on our behalf.

2 It's a matter that's out of my control but my
3 understanding is that it has been imminent [inaudible], Your
4 Honor.

5 THE COURT: That's --

6 MR. GRENDI: [Inaudible]

7 THE COURT: That's what we thought last time and now
8 we have issues --

9 MR. GRENDI: I know, Your Honor.

10 THE COURT: -- that have been waiting to be resolved
11 and I don't know what to do with someone who says I don't have
12 authority to discuss these things or to represent the client
13 and you are nonetheless still counsel of record. At some
14 point if there's no substitution, if you don't have authority
15 you're going to have to move for leave to withdraw. That
16 would then trigger some actions by the court because if you've
17 got a corporate client, a corporate client can't proceed
18 without a lawyer.

19 MR. GRENDI: I'm sorry. Go ahead. Obviously they
20 need representation. That's why I understood that a new firm
21 is coming in. What can I say, Your Honor? I believe that
22 it's going to be any day now. I've been monitoring the
23 situation and calling and trying to get information.

24 THE COURT: Did you explain -- did you explain to
25 your client contact that there is a call today in which there

1 may be some issues raised in which it may have an interest and
2 that you are still its representative and may be called upon
3 to speak on its behalf?

4 MR. GRENDI: I certainly explained to him that there
5 was a call today. I do understand that my client has an
6 interest in this matter. Obviously the third parties or non
7 parties are ably represented by counsel. I don't think that
8 their position is too far afield from Eastern's position. I'm
9 prepared to proceed, Your Honor. What can I say? I'm in a
10 difficult position and it should be resolved very much in the
11 near future and --

12 THE COURT: I understand that you're in a difficult
13 position. I just -- you haven't been relieved of counsel. So
14 I understand that from where you sit it's a difficult position
15 but you are still counsel of record for this client at the
16 moment and unless we put this -- unless we put off these
17 issues to wait for a substitution which was supposedly
18 imminent before then you're kind of stuck with it I think.

19 MR. GRENDI: I understand, Your Honor, and --

20 THE COURT: I said last time that I didn't want to
21 discuss extensions of deadlines without having new counsel at
22 the table for that because I don't want to keep changing
23 dates. Has new counsel surfaced at all even informally to
24 speak with opposing counsel about scheduling?

25 MR. GREIM: Your Honor, this is Mr. Greim. We've

1 heard from nobody other than Mr. Grendi and we just check with
2 him every couple of days to see what the status is.

3 THE COURT: Okay.

4 MR. GRENDI: Your Honor, I think at least clarify
5 that it is not -- I know there is a firm. Its name is Pepper
6 Hamilton. Like I said, my understanding is they're on the
7 cusp of being retained and substituting --

8 THE COURT: Well, they're not going to get a longer
9 extension of time because they're waiting longer to show their
10 faces. I mean --

11 MR. GRENDI: I don't think, Your Honor, that that's
12 the intention or what they are trying to do here. I really do
13 think it's just -- it has to do with their relationship with
14 my client and how they're hammering that out. Again, I don't
15 know much about those things but I don't think the goal is to
16 buy more time by waiting to substitute.

17 Now, certainly --

18 THE COURT: Whether it's the goal or not --

19 MR. GRENDI: -- [inaudible] after this call.

20 THE COURT: Whether it's the goal or not they should
21 be aware that there may be a consequence. They may end up
22 with less time to get up to speed if they get into the case
23 later because if they had the opportunity to get in, if
24 they've been talking to the client, if they've had a chance to
25 be reviewing paper and all of that it may fall on deaf ears if

1 they come in and say they want a lengthy extension. So please
2 pass that word along.

3 MR. GRENDI: Thank you, Your Honor.

4 THE COURT: Pass that word along that if they don't
5 come in soon what they're doing is they're sacrificing their -
6 - or potentially sacrificing their own getting up to speed
7 time once they're officially in the case because I'm assuming
8 they can start getting up to speed now. They're in active
9 talks with the client. They can be looking at files. So I'm
10 not going to be too sympathetic if they say we don't know
11 anything yet. So please pass that along.

12 MR. GRENDI: I will convey that very --

13 THE COURT: Maybe that will help -- maybe that will
14 help goose everybody to make this happen already.

15 So I also have these issues regarding third party
16 discovery. There's a fair amount that's been said on this
17 subject in correspondence to me. It seems to boil down to the
18 questions of should Mr. Guo come back for another day of
19 deposition in light of his having been instructed to or
20 refusing to answer a number of questions, are those questions
21 the sort of thing that are appropriate within the scope of
22 relevant discovery, should he have been answering these kind
23 of questions and appropriate follow up from them. Those seem
24 to fall into certain categories, not all of which I can quite
25 get my arms around in terms of why it's relevant what we're

1 talking about exactly.

2 But I think there's probably enough to have him come
3 back but I'm fairly suspicious about a number of these
4 categories in terms of whether they've been shown to really
5 have bearing on a claim or defense that's been raised in the
6 case. But why don't we take them in turn first with respect
7 to Mr. Guo's communications or negotiations with the Chinese
8 government.

9 It sounds like defendant is only looking for a
10 fairly narrow period of time before or during contract
11 negotiations. Is that right?

12 MR. GREIM: Your Honor, that's right. We're looking
13 for -- what we've alleged are the things that we already have
14 found recordings about. The first one is in March and then it
15 continues on through August and then from that point the
16 recordings stop but obviously we don't -- there could have
17 been other communications and just some questions about what
18 the communications have been and when and how frequent. We
19 may actually learn there's others.

20 THE COURT: So where do these recordings come from?
21 How do you have these recordings?

22 MR. GREIM: [Inaudible] Your Honor, we found them
23 on YouTube.

24 THE COURT: And these are recordings that seem to
25 show sympathy to the Chinese government?

1 MR. GREIM: Yes. I mean certainly more than
2 sympathy. I'll tell you -- I'm just going to -- I wanted to
3 mention this before. I'm having the same issue that we might
4 have had on the last call. I'm just -- I can hear what you're
5 saying but I'm missing little parts of words here and there.
6 I just wanted to mention it.

7 But to go to your question yes, I mean the March
8 27th team call which we talked about in our counterclaim Guo
9 said he's back in New York. The operation is one. Then he
10 proceeds to criticize dissidents as being unpatriotic and says
11 he completely supports [inaudible]. So that's the March.

12 The May -- we have two different clips and they are
13 communications with a high ranking CCP official. He was
14 actually with Guo in his apartment in New York at the time and
15 we have transcribed those and translated them and sent them to
16 the other side.

17 Back in July, Your Honor, I sent these clips to
18 opposing counsel and said hey, rather than play these whole
19 things at a deposition I just want to send it to you now, just
20 let you know that we would like to ask your client to
21 authenticate these. So they've got those and now we've
22 produced our transcription.

23 We recently found a third clip by the way of a
24 meeting. There were a couple of different --

25 THE COURT: Wait. Hang on a second.

1 MR. GREIM: -- [inaudible] same kind of [inaudible]
2 May of 2017.

3 THE COURT: These were audio -- hold on a second.
4 These are audio recordings that were on YouTube and that were
5 not in English. Is that right?

6 MR. GREIM: That's right. They're not in English.

7 THE COURT: And they're audio -- there's audio that
8 you found on YouTube that's in -- is it Mandarin? What's the
9 language?

10 MR. GREIM: It is.

11 THE COURT: It's in Mandarin, okay.

12 MR. GREIM: So I'm told.

13 THE COURT: So this has been now translated by
14 somebody who I assume is a certified translator and you
15 provided transcripts of audio recordings you found on YouTube
16 that you think were recorded by Mr. Gro himself.

17 MR. GREIM: That's what we believe although my
18 questions about that -- that's where I begin to get some push
19 back. We've also alleged that --

20 MS. TESKE: Wait, sorry. Eddie, are you saying that
21 you provided us with transcripts of the recordings?

22 MR. GREIM: I produced them in discovery. I guess
23 it's possible that my discovery -- yes, I have not given the
24 transcripts to -- I don't believe. I'm looking over -- we
25 did not produce them to non parties but they were produced in

1 discovery quite some time ago and the links themselves was
2 sent to Guo's counsel back in July.

3 MS. TESKE: We don't have those transcriptions.

4 MR. GREIM: Okay. I'm happy to -- I'm a little
5 surprised but I guess I can understand. We just produced them
6 in discovery and we wouldn't have produced discovery to Guo
7 but I have no objection to doing it and I'm surprised --

8 MS. TESKE: You just said you sent them to us so I
9 just want to make sure we're all being clear on the call.

10 MR. GREIM: No, I don't think -- okay. Well, I
11 apologize for any misunderstanding there but anyway we
12 produced them in discovery and I tried to ask Mr. Guo about
13 recordings. I tried to lay the groundwork for his ability to
14 record conversations that happened in his apartment because
15 other conversations have come out as well. We know that he
16 installed some microphones. I think he said others were
17 already there. We got a dispute about whether he actually can
18 or cannot access those.

19 So that's one reason why I asked him to bring to his
20 deposition [inaudible] subpoena because at the time it seemed
21 like we were able to cooperate in that way. Any recordings he
22 had that were relevant to the case and -- so I think there may
23 well be the actual Guo recording version of these. That's
24 probably longer. We let *The Wall Street Journal* listen to
25 some of these. *The Wall Street Journal* did an article about

1 them and the reporter say they were granted access to these
2 and Guo says he has other excerpts.

3 So we'd like to see them. He's trying to negotiate
4 what he can say and not say, travel arrangements for his
5 family, you know, fines or penalties he may have to pay,
6 property he can keep. These are seemingly relatively cordial
7 discussions. So he's negotiating with him and then --

8 MS. TESKE: Your Honor, I have -- can I just -- I
9 have to say that the portrayal of this conversation that is
10 being provided by Mr. Greim is night and day from the
11 portrayal that the *Washington Street -- The Wall Street*
12 *Journal* gave in its article about this. What *The Wall Street*
13 *Journal* said after listening to the recordings was that the
14 CCP arrived at Mr. Guo's house and demanded that he stop doing
15 what he's doing in the U.S. and stop speaking out about the
16 CCP and that he return to China and that if he behaved well
17 that China will release his assets and not harm his family and
18 that he can return to China safely.

19 Then they left and then they returned back to his
20 apartment a second time and *The Wall Street Journal* said
21 that -- that Mr. Guo called the FBI to alert the FBI that they
22 would be returning and to please tell them to meet.

23 So the portrayal that Mr. Greim is giving is so
24 drastically different than what is actually in those
25 recordings. This is why I have suspicions about everything

1 that comes out of Mr. Greim's mouth.

2 MR. GREIM: Well, Your Honor, I guess I can say
3 this. I don't know what portions of the transcripts *The Wall*
4 *Street Journal* listened to. I really don't. But I've read
5 the transcripts of these and I have for as long as I could
6 tried to listen to the tone of voice of these individuals as
7 they speak.

8 The other thing is, *The Wall Street Journal* reported
9 on probably what Guo told them about this. There are other
10 circumstances that we've alleged in our complaint about this.
11 The point is I don't -- we are trying to -- we are trying to
12 get these authenticated and actually get the full recordings.
13 They clearly go to the question -- I mean if they are what Ms.
14 Teske represents and what she's saying *The Wall Street Journal*
15 reported then great. Then that's what they establish but I
16 don't have to prove that they already show he's not a dissident
17 before I get to see the tapes.

18 MS. TESKE: But you have to have some good faith
19 basis for believing that all of the facts that are supporting
20 Mr. Guo's status as a dissident, he's reporting the fact that
21 this is what the recordings say are not true.

22 MR. GREIM: Well --

23 THE COURT: Wait a minute. I didn't -- hold on a
24 minute. I didn't follow that. Say that again. I lost those
25 on the negatives and the positive on that sentence.

1 MS. TESKE: Yeah, yeah, yeah. Sorry, Your Honor.
2 We need some good faith basis for inquiring into the
3 recordings and if -- all of the publicly available information
4 states that the recordings do nothing but support Mr. Guo's
5 status as a dissident you have to have some good faith basis
6 for looking into this. Otherwise you could look into
7 absolutely everything and not just here.

8 I mean I'm sorry but listening to the tone of
9 somebody speaking in Mandarin is -- and deciding that it's too
10 familiar or too friendly is such a stretch.

11 MR. GREIM: Your Honor, I've got a transcription of
12 these two things.

13 THE COURT: So tell me -- tell me what's in the
14 transcription. What is -- what is said that is suspicious to
15 you?

16 MR. GREIM: Frankly, Your Honor, it's going to take
17 me a second. I don't have it in front of me. For use in
18 discovery I've got them on my system here. But what he's
19 generally doing is telling the -- I forget the name of the
20 official here.

21 You know what, before I start guessing at it, if --
22 if the Court actually wants to read the transcript and that's
23 going to become the basis of the ruling if you can give me a
24 little time maybe while we -- while I give you the rest of my
25 [inaudible], just give me a second --

1 THE COURT: Let's do this. Let's adjourn this call
2 for a minute or two. Maybe more than a minute or two. Find
3 it. Produce a copy to Mr. Guo's counsel so they know what
4 you're talking about and then I have another call at 3:30. So
5 as long as you call me back no later than a quarter to three
6 because I don't know if I'm going to need 45 minutes with you
7 but I certainly hope it's not more than that. Give me a call
8 back. All right?

9 MR. GREIM: Your Honor, I do have one other -- we
10 have a couple of other issues on the call.

11 THE COURT: I thought the main issue was whether Mr.
12 Guo's deposition should be continued and if so what kind of
13 questions are going to be fair game or categories of
14 questioning.

15 MR. GREIM: That is the main question. There are
16 two other questions. One is going --

17 THE COURT: Wait, wait, wait. Wait a minute. If
18 you are talking simultaneously I'm not going to be able to
19 hear either of you nor if this conference is ever transcribed
20 will it come out making sense.

21 MR. GREIM: Okay. Your Honor, I'm sorry. If
22 somebody else is talking I guess maybe my own phone blocks it
23 out. But Golden Spring is one outstanding issue. And then
24 the final issue is these ACA Mistrello documents. That's --
25 parties are also represented by Ms. Teske. We let Golden

1 Spring on our last call back on August 21 -- 21st. The
2 Mistrello document issue is new and it arose at the Mistrello
3 deposition. I was hoping we could cover those issues here
4 today as well. So I was just going to suggest that I could
5 maybe have somebody going to get those and even emailing them
6 and we might use a small window of time here just to switch
7 and change gears. But we don't have to. It was just a
8 suggestion.

9 THE COURT: What is the issue about Mistrello
10 documents?

11 MR. GREIM: Your Honor, you might recall that we
12 deposed Karen Mistrello for a short amount of time. It's been
13 now several weeks ago. I'd ask that she bring in native
14 format through her counsel, Erin Teske, any kind of
15 resignation that she supposedly sent in right before being
16 served as [inaudible] director. The witness did bring a
17 printout of an electronically mailed resignation prior to the
18 deposition. We marked it, brought an email that transmitted
19 it, printed off, and then we learned that there was an email
20 that responded to it allegedly and said this is accepted and
21 we heard that there were some emails before that that -- in
22 which she suggested resigning or said something about
23 resigning and then there was a back and forth at William Gee,
24 the man who seems to be affiliated with ACA.

25 So at the deposition I said I'd like to ask that

1 these be produced. The parties have a dispute about whether
2 the witness did or have the authority to agree to make sure I
3 got those after the deposition and we dispute whether -- maybe
4 I understood Ms. Teske to say that email her and I would get
5 them. I think her position is she said email me and then
6 we'll talk about it and it's -- the point is I'd like to get
7 those other resignation materials because I have severe doubts
8 about this resignation happened right before she was served
9 with process.

10 MS. TESKE: Your Honor, I don't have Mistrello's
11 deposition transcript yet although Eddie, if you can get me a
12 copy I would appreciate it. It's my understanding -- I just
13 remember Ms. Mistrello testifying that there was an email in
14 [inaudible] saying something along the lines of accepted. I
15 don't remember a reference to any other email communication
16 that wasn't provided. That email I'm happy to provide.

17 The email that we did provide has a date stamp on it
18 and I don't know what else is being requested.

19 MR. GREIM: Your Honor, I followed up immediately
20 after deposition and I can't believe -- I've pasted the
21 section. We talked about it. I can't believe that Ms.
22 Mistrello's counsel doesn't have the transcript. If not we'll
23 make sure we get at least a draft we have over.

24 But look, I don't want to make this too messy. I
25 just thought I should have the communications that were the

1 resignation and I was told basically no --

2 THE COURT: Have you conferred fully pointing out
3 the section in the deposition, pointing out the documents
4 you're talking about --

5 MR. GREIM: Yes.

6 THE COURT: -- and --

7 MS. TESKE: No.

8 MR. GREIM: Your Honor, we -- we have conferred
9 fully on this matter. I asked several -- over a two week
10 period I asked repeatedly for these. At the end of two weeks
11 I was told no, we never agreed to do this. We then conferred
12 on the telephone about it. We exchanged a section of the
13 transcript. I am willing to agree that I was only told to
14 send an email to opposing counsel.

15 THE COURT: I'm sorry. You exchanged a section of
16 the transcript? What does that mean?

17 MR. GREIM: The section in the transcript where I
18 asked can I please -- can I please have these other emails
19 that weren't produced. And frankly I left that day thinking
20 okay, I'll send an email. I'll just remind opposing counsel
21 that this is what we're asking for and I thought I would get
22 them and two weeks into it after I emailed about I'd say three
23 times with no response I get a response saying we never agreed
24 to do this and I said well, let's talk about it and we did
25 talk about it.

1 Look, I'm not going to stand on -- I don't want to
2 get into a fight about whether I misunderstood, maybe inviting
3 me to email, it might just be inviting me to talk about it
4 offline. That's fine. That's fair. My [inaudible] point is
5 though that the witness can't just produce a printout of the
6 resignation itself and not be communications on either side of
7 it and I did ask for them in native format. So you can see
8 that they really send an email then. I think it's a pretty
9 simple request. It's not burdensome. I've been told
10 unequivocally no. It sounds like I just heard yes on part of
11 it which comes as a shock.

12 MS. TESKE: I will produce an email where he
13 responds accepted if that is a request that is now being
14 asked. I don't recall that specific request in the
15 transcript. What I said that he did not produce are the
16 native files because the emails were Bates stamped and she's a
17 non party that had absolutely nothing of substance to say it
18 was relevant to this case.

19 MR. GREIM: Your Honor, I've got to tell you. This
20 -- there's no question that this was asked for. I was told
21 unequivocally no on the phone. I asked for native files
22 because there were -- there were emails -- the witness
23 testified on either side of this resignation that she sent.
24 It sounds to me like there might be a total of two or three
25 additional emails and I simply want them in native format. I

1 don't -- a link, you can even send me a disk. I mean I really
2 thought I would get them the next day. I don't know. I don't
3 know what really --

4 THE COURT: What is the information -- what is the
5 information you want to be able to see by having it in native
6 format?

7 MR. GREIM: I want to be able to see when the emails
8 were actually sent.

9 THE COURT: Don't emails when they're printed out
10 have the -- generally have a time on them?

11 MR. GREIM: Well, they do but the reason parties
12 produce things in native format is that frankly that's not
13 always what the original emails said and especially here where
14 she's emailing --

15 THE COURT: Listen, listen, listen. I said this
16 last time. I'm going to say it again. You seem to be
17 operating from the point of view of I have a lot of suspicions
18 about everything. I'm just a very suspicious person and
19 everything that I see makes me wonder if there's something
20 else and makes me think there's something under the surface
21 that I'm not seeing and I have to keep digging because I am
22 really suspicious. Okay. You have an issue of timing. But
23 you have a non party. You get the emails.

24 I'm going to tell counsel for the witness if there
25 are a string of emails that relate to the resignation, if

1 there's any back and forth about it at all, if it goes back in
2 time where it was being considered at an earlier time which it
3 sorts of [inaudible] suspicion anyway, produce more than just
4 the one -- the one resignation letter. Produce the emails and
5 on the emails that are produced in whatever format they're
6 produced whether they're in paper format or electronic format
7 make sure they show the times and dates, dates and times when
8 they were sent.

9 I'm not going to assume that the documents have been
10 doctored and that the dates and times are not really when they
11 were sent. Get that produced in some kind of form that shows
12 date and time. All right? Let's move on.

13 MS. TESKE: Okay.

14 MR. GREIM: Your Honor, that just leaves Golden
15 Spring and Guo and maybe this is now a good -- maybe we should
16 go ahead and take our short break and we'll --

17 THE COURT: Take the break because with respect to
18 Mr. Guo you've got a number of categories of topics. One of
19 them has to do clearly with these recordings and I'm hearing a
20 flat out contradiction as to the content of the recordings of
21 which you are aware and if you're relying on the content to
22 open the door to these kinds of questions I should at least
23 give the other side an opportunity to tell me whether you're
24 accurately or not accurately conveying what the content is.

25 So I'll wait for a call back.

1 MR. GREIM: Okay, Your Honor.

2 THE COURT: Thank you all.

3 [Off the record.]

4 THE COURT: Hello again. It's Judge Freeman. Do I
5 have everyone on the call I had before?

6 MR. GREIM: I believe so. This is Mr. Greim.

7 MR. GRENDI: Mr. Grendi.

8 MS. TESKE: Erin Teske's on the line.

9 THE COURT: So what have you learned?

10 MR. GREIM: Well, Your Honor, I hadn't read this
11 transcript for quite some time. So I finally stopped. I've
12 got about 20 references I could run through that show Mr. Guo
13 and Mr. Lui Yan Pen [Ph.] negotiating Guo's property. We've
14 got references to prior discussions in which Guo made promises
15 about which officials he would talk to. We've got Guo making
16 promises about what he'll say and ultimately saying he
17 supports President Xi. So we could go line by line but I --
18 we've got I mean over two hours worth transcribed here of
19 discussions with Lui Yan Pen. Guo tells Lui that he is
20 telling the Americans about their movements. Lui reports on
21 plans that the delegation had for meeting with President
22 Trump. Not this delegation but a forthcoming delegation.

23 These are very high level officials and they're
24 exchanging very sensitive information. If this isn't relevant
25 to showing that Mr. Guo is working with the officials, with

1 the Chinese CCP officials and PRC and not a dissident then I
2 don't know what else is. I'm curious -- I'd like to get the
3 full recording if this isn't it.

4 MS. TESKE: Your Honor, I still haven't heard any
5 statement. I don't even know what to say to that because I
6 still am not sure what Mr. Greim is referring to. If he could
7 pick out statements in the recordings -- could I also say that
8 irrespective of what we say on this call I really think Your
9 Honor should read the transcription because it's a little bit
10 difficult to pick out pieces of this that's being discussed
11 between two people who have a much broader understanding of
12 what's happening when it's being translated from Mandarin to
13 English and you really get the feel for the conversation when
14 you read it as a whole.

15 MR. GREIM: Your Honor, we have no objection to
16 that. In fact, there's the March 17 call I spoke about.
17 That's transcribed here. Then a follow up to these meetings
18 in August in which Guo goes on a TV program to talk about his
19 letter pledging support for President Xi.

20 THE COURT: Why don't you read me an excerpt in
21 particular and point out to opposing counsel, which is non
22 party counsel, what page and line you're at?

23 MR. GREIM: Okay.

24 MS. TESKE: And maybe we should start with the May
25 2017 recordings because those are the only ones that our

1 client has been able to authenticate and all of the other -- I
2 have no idea where they came from.

3 MR. GREIM: Okay. Your Honor, that's the first time
4 I've heard that he has even viewed them or authenticated them.
5 We'd ask --

6 MS. TESKE: I told you the last time we spoke that I
7 was going to get back to you and have him do that and I just
8 found that out. So I'm not trying to spring it on you but I'm
9 just -- I'm trying to speed up the conversation.

10 MR. GREIM: Okay. Well, I'm just going to start
11 from the top. I guess I quit -- I was in a hurry. I quit
12 taking notes at some point.

13 THE COURT: I'm sorry. You're starting from the top
14 of what?

15 MR. GREIM: Okay. We're going to start -- this is
16 Exhibit -- video. This is Video No. 8 and in this exhibit
17 that we produced -- I'm trying to think -- I don't -- I'm
18 sorry.

19 MR. GREIM: I don't know where you're looking.

20 MR. GREIM: I'll give you the time stamps. You have
21 to flip back to where Video 8 begins and it's -- I will
22 represent to you that these transcriptions are the vast bulk
23 of what we have. It says published October 19th and it's got
24 -- the best I can say it looks like it's on -- I can't see my
25 [inaudible]. I'm sorry. I'll just have to let you scroll to

1 it. Do you see where I'm talking about?

2 MS. TESKE: Your Honor, I know you said you had a
3 call in 13 minutes. Can I suggest that we adjourn this for a
4 time after we have all had a chance to read this and digest
5 the transcripts? Because I really think that pitching pieces
6 of this out and talking about them in a vacuum is not the
7 right way to go about this.

8 MR. GREIM: I would even say a little further. I
9 think the sum is greater -- the whole is greater than the sum
10 of its parts. I mean I've written down a long series of pages
11 of minute markers in each of these two videos. But I mean we
12 disclosed these a long time ago. We pled them in our
13 counter --

14 MS. TESKE: Not to us you didn't, Eddie. Not to us
15 you didn't.

16 MR. GREIM: Okay. So maybe that's the best way to
17 go, Your Honor, but I would also point out that it's not just
18 these two. I would almost say we should maybe just produce
19 the entire affidavit of the translator into everything that
20 she transcribed because those are also at issue to the other
21 points. I'm happy to just submit it to the Court.

22 THE COURT: What are we talking about --

23 MS. TESKE: [Inaudible] that they haven't been
24 authenticated and they were pulled off of YouTube.

25 THE COURT: Well, that's fine. He can use it at

1 deposition to try to authenticate them. That's a legitimate
2 use of a deposition. If you have something that's not
3 authenticated to try to make it authenticated.

4 MS. TESKE: [Inaudible] taken those efforts.

5 THE COURT: But if Mr. Guo cannot authenticate it
6 then he can't and if he can then he can. But in terms -- how
7 voluminous is this material that you're now talking about
8 sending to me?

9 MR. GREIM: Ha ha ha. Good question. Most of it is
10 the transcription of these two meetings with these officials.

11 THE COURT: So it's approximately how many pages?

12 MR. GREIM: Okay. [Inaudible]

13 MR. GRENDI: It's over 100 pages.

14 MS. TESKE: No, not the March 2017 [inaudible].

15 Those are -- I don't know. Fifteen pages?

16 MR. GRENDI: Well, my window [inaudible] page, Your
17 Honor.

18 MS. TESKE: It's also not full pages. I mean it's
19 put up in a column. It has all the Chinese stuff, Mandarin
20 stuff on one side and [inaudible] narrow columns.

21 MR. GREIM: We think it's 136 pages, Your Honor.
22 Then the relevant section is going to probably be about 70 of
23 those.

24 THE COURT: This seems to me to be an important
25 issue with respect to this deposition. Is that fair? There

1 are a bunch of issues but this seems to me to be maybe the
2 biggest --

3 MR. GREIM: Your Honor, this is the number one
4 thing. If we can't ask them about this -- to us it's number
5 one.

6 THE COURT: All right. Send it to me. Make sure
7 everybody's got the same thing. Try to have Bates numbers so
8 that everybody can be on the same page if the pages aren't
9 otherwise numbered so that if we're talking about it in a
10 follow up call everybody can be looking at the same thing.

11 MR. GREIM: We will do that. Your Honor, would you
12 like to receive this in some better way than what we've been
13 doing? Would an email work or --

14 THE COURT: If you send me an email of 136 pages
15 then I've got to print out 136 pages.

16 MR. GREIM: Okay.

17 THE COURT: I would rather not have to do that.

18 MR. GREIM: Fair enough. I get it. We'll overnight
19 it. Maybe --

20 THE COURT: Having it bound in some sort of way
21 would be useful but I was sent a copy of the Guo deposition.
22 It was just a whole stack of loose paper with a large rubber
23 band which is not that helpful.

24 MR. GREIM: Okay.

25 THE COURT: I don't have binding capability here.

1 MR. GREIM: Your Honor, I'm sorry about that.

2 THE COURT: I don't know -- I don't mind if it's in
3 big print like a deposition transcript. I don't mind
4 something like a miniscript. We sometimes copy things four
5 per page to make it less voluminous. As long as it's legible
6 I don't care.

7 THE WITNESS: Would you like front and back?

8 THE COURT: I'm not as crazy about front and back
9 because when somebody goes to make copies very often you get
10 pages 1, 3, 5 and 7 but I don't mind -- I don't mind any way
11 that is easy to read and that everybody -- if everybody else
12 has a copy of the same thing if we're talking about it it's
13 not hard to figure out what page we're on.

14 MR. GREIM: Okay. We'll -- it's in sort of chart
15 format. It's got time stamps, speaker's initials.

16 THE COURT: You figure it out. You figure out the
17 best format for getting it produced to me and everybody else.
18 I gather what I'm looking at is to see is this -- does this
19 look like or could this arguably be what defendant's counsel
20 says it is and thus fair game for questioning even in an
21 attempt to authenticate it.

22 Again, I pointed out last time that it is a
23 difficult task to try to prove somebody is not really a
24 dissident as he said he was. How do you go about doing that?
25 I understand you need a little leeway to be able to do that

1 but you can't be off here and there and everywhere without
2 some grounding.

3 So I'll look at it and we'll reconvene. I'm not
4 sure exactly when. We'll figure something out. Do you want
5 to try to find a date and time for reconvening purposes?

6 MR. GREIM: Yes. We'll work on it, Your Honor. We
7 won't use your time right before your next call to do that but
8 we'll huddle and we'll talk to your staff about when you got
9 time.

10 The only other thing I'd say is we --

11 THE COURT: Just bear in mind my calendar is
12 extremely full and I -- including with trials coming up. So
13 it's going to be difficult to find a slot of time.

14 MR. GREIM: We'll be -- the only thing I'd say, Your
15 Honor, is we cannot get dates -- we know the issue with Mr.
16 Grendi but with Ms. Teske's firm they represent Golden Spring
17 and Guo. [Inaudible] just get dates, placeholder in the
18 calendar knowing that Golden Spring is going to have a
19 witness. Guo will --

20 THE COURT: What is the issue -- what is the -- what
21 is the issue on which you needed me for Golden Spring?

22 MR. GREIM: Well, right now they agreed to produce
23 two categories of documents. We got a dispute over some
24 others and we got a dispute over the 30(b)(6) topics for
25 Golden Spring. We discussed it. We have an impasse and we

1 need a decision on what we can ask Golden Spring about.

2 THE COURT: I'm not even sure that was in the
3 papers --

4 MR. GREIM: [Inaudible] the party that actually --

5 THE COURT: I know who it is. I don't know that
6 you've given me in all of your various letters that you've
7 given me that dispute.

8 MR. GREIM: Your Honor, we did. We didn't do it in
9 the last call though. Remember, we spent a long time on ACA
10 Mistrello. So we worked with the other side -- with Attorney
11 Teske. We narrowed our request. We still have a dispute and
12 we just -- we need some decision. We think --

13 THE COURT: So is -- you've worked since the last
14 call or before the last --

15 MR. GREIM: Yes.

16 THE COURT: Do I have the update as to where things
17 stand?

18 MS. TESKE: No, Your Honor. We have not written
19 letters to you on the Golden Spring issue.

20 THE COURT: I'm not going to really want more
21 letters but I don't want to read an old letter and be behind
22 the times.

23 MR. GREIM: Your Honor, we'll send you a short --
24 maybe we can knock out in the next call. We'll send you a
25 letter that lines up where the parties are and the issues are

1 all the same you've seen with the other folks. We just want
2 Golden Spring bound to the same extent as Eastern Profit
3 because it's the same person.

4 THE COURT: Are you available on September 24, and
5 can you get yourself ready by then?

6 MR. GREIM: I want to immediately say yes. I'm just
7 quickly making sure here. Tuesday -- yes.

8 MS. TESKE: I'm sorry, Your Honor. I am not
9 available on the 24th.

10 THE COURT: Afternoon of the -- it's already the
11 18th. I really -- I'm booked up solid on the 26th, 27th and
12 I start a trial on October 1. Then we're talking about the
13 middle of -- I'm sorry.

14 MS. TESKE: [Inaudible] the 30th.

15 THE COURT: That's Rosh Hashanah.

16 MS. TESKE: I'm sorry.

17 THE COURT: I just don't have anything on the 26th
18 or 27th and then like I said I'm on trial. I can have a short
19 call but I can't have an extended call. That trial is going
20 to go through at least the 10th, maybe the 11th. I'm not
21 sure. So I could talk to you again October 17 at eleven. I
22 just don't have slots.

23 MR. GREIM: Your Honor, could we --

24 MR. GRENDI: [Inaudible] I don't have any time at
25 all [inaudible].

1 MR. GREIM: Your Honor, what if we just submit
2 our --

3 THE COURT: I'll just do it on paper. I'll just do
4 it on paper. Everybody submit anything you haven't submitted
5 yet including these transcripts, these transcriptions --

6 MR. GREIM: Your Honor, maybe I could ask. What's
7 opposing counsel's conflict on the 24th?

8 MS. TESKE: I have an out of office deposition.

9 THE COURT: Get everything to me on paper. Work out
10 a schedule for it and I'll just do it on paper. If I really
11 feel I need to talk to you again we'll figure something out.
12 We'll get in touch with you.

13 MR. GREIM: Your Honor, could we get agreement to
14 get dates on any of these depositions just to put it in the
15 calendar?

16 THE COURT: Why have there not been dates put on the
17 calendar?

18 MR. GREIM: We have been asking for over a --

19 THE COURT: I understand you've been asking. On the
20 other side, why are there no dates yet, just as hold dates?

21 MS. TESKE: Your Honor, we dispute a date will be
22 necessary for Mr. Guo and --

23 THE COURT: Find a hold date. If it's not necessary
24 it won't happen.

25 MS. TESKE: Okay.

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THE COURT: Thank you all.

MR. GRENDI: Thank you, Your Honor.

MR. GRENDI: Thank you, Your Honor.

* * * * *

1 I certify that the foregoing is a court transcript from
2 an electronic sound recording of the proceedings in the above-
3 entitled matter.

4
5 *Shari Riemer*

6 _____
7 Shari Riemer, CET-805

8 Dated: October 17, 2019
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